

Article - Health - General

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§2-504.1.

(a) Except as otherwise prohibited by State or federal law, in the sole discretion of the Inspector General, the Inspector General may impose a civil money remedy against a provider for a violation of State or federal law governing the conditions of payment for any service or item for which the provider submitted a claim for payment and received payment.

(b) A civil money remedy imposed under this section:

(1) Is in lieu of full payment or full adjustment of the paid claim and not in addition to repayment of the claim;

(2) May not be less than the federal financial participation share of the identified improper claim amount;

(3) May not be imposed if the claim was included in the universe of claims under an extrapolation calculation; and

(4) Is only available if the provider has not been subjected to a repayment penalty or fine, a criminal action, or a civil false claims action under either federal or State law for the same claim.

(c) (1) A civil money remedy may not exceed the amount of reimbursement that the provider received for the paid claim.

(2) In determining whether to impose a civil money remedy under this section and in setting the amount of the civil money remedy, the Inspector General shall consider:

(i) The number, nature, and seriousness of the violations;

(ii) The provider's history of compliance;

(iii) The efforts made by the provider to correct the violations and any continuation of conduct after notification of possible violations;

(iv) The provider's level of cooperation with the Department or Inspector General as it relates to the review of the claim;

(v) The degree of risk to the health, life, or safety of consumers as a result of the violations; and

(vi) Any other reasonable factors as fairness may require.

(3) In weighing the factors set forth in paragraph (2) of this subsection, the Inspector General shall, if appropriate, give special consideration to the extent to which the provider's size, operations, or financial condition:

(i) May have contributed to the violations; and

(ii) May affect the provider's ability to provide care and continue operations after payment of a civil money remedy.

(d) If a civil money remedy is imposed under this section, the Inspector General shall issue a written notice and order to the provider that:

(1) States the total amount of the civil money remedy; and

(2) Includes the following information:

(i) The basis on which the order is made;

(ii) Each regulation or statute violated;

(iii) The amount of each civil money remedy imposed for each violation;

(iv) The number of claims and total value of the claims identified with errors; and

(v) The manner in which the amount of the civil money remedy was calculated.

(e) The notice and order shall be served on the provider by certified mail and shall include a statement that explains the provider's right to appeal the order in accordance with Title 10, Subtitle 2 of the State Government Article.

(f) (1) An order that imposes a civil money remedy is final when the provider has exhausted all opportunities to contest the civil money remedy in accordance with Title 10, Subtitle 2 of the State Government Article.

(2) After exhaustion of all appeals, a provider shall pay a civil money remedy to the Department within 10 days after the provider receives a final order

that affirms the imposition of the civil money remedy unless the Inspector General negotiates and approves a repayment schedule.

(g) The Inspector General, in consultation with stakeholders, shall adopt regulations to implement this section.

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